

BOARD OF MAYOR AND ALDERMEN

May 4, 2004

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Roy, Gatsas, Guinta, Sysyn, Osborne, Porter, O’Neil, Lopez, Shea, DeVries, Garrity, Smith, Thibault and Forest

Mayor Baines stated first of all I have some good news. Leo Bernier did return home today. He is making a great recovery. I am sure he is watching tonight. Leo, have a speedy recovery and if you see anything going wrong call Carol and let her know. It is an honor for me this evening to recognize and present this Proclamation. This is the 35th Annual Municipal Clerk’s Week, May 2 through May 8 and those of us involved in government know the important role that the Clerk’s Office plays in the functioning of government on a day-to-day basis, especially the work they do with the Board of Mayor and Aldermen but to be honest with you more importantly the work that they do with the community and the people coming in. They are often the first voices that are heard in the public and they obviously represent our City in such an extraordinary manner.

Proclamation

- Whereas** The Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world; and
- Whereas** The Office of the Municipal Clerk is the oldest among public servants; and
- Whereas** The Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels; and
- Whereas** Municipal Clerks have pledge to be ever mindful of their neutrality and impartiality, rendering equal service to all; and
- Whereas** The Municipal Clerk serves as the information center on functions of local government and community; and
- Whereas** Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meeting of their state, province, county and international professional organizations; and
- Whereas** It is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk

NOW, THEREFORE, I, ROBERT A. BAINES, by virtue of the authority vested in me as the MAYOR OF THE CITY OF MANCHESTER, do hereby recognize the week of May 2

through May 8, 2004, as Municipal Clerks Week, and further extend appreciation to our Municipal Clerk, Leo R. Bernier and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

S/Robert A. Baines, Mayor
May 4, 2004

Mayor Baines stated in Leo's absence I would like to present this to Carol Johnson. Our Clerk's Office is like a M.A.S.H. unit actually to be honest with you with all of the different injuries and illnesses that have plagued the office and it has really been a testimony to the teamwork they have established there that they function in such an exemplary manner.

CONSENT AGENDA

4. Mayor Baines advises if you desire to remove any of the following items from the Consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Approve Under Supervision of the Department of Highways

- A. PSNH Petition #11-991 located on Maple Street and Petition #11-992 located on Ruggles Street.

Informational – to be Received and Filed

- C. Communication from Comcast submitting the franchise fee payment for the first quarter of 2004 in the amount of \$275,544.80.
- E. Minutes of the Piscataquog River Local Advisory Committee meeting held April 1, 2004.

REFERRALS TO COMMITTEES

COMMITTEE ON FINANCE

- F. Resolution:

“Authorizing the Finance Officer to effect a transfer of Fifty Thousand Dollars (\$50,000.00) from EPD Contingency to Maintenance and Repair.”

REPORTS OF COMMITTEES

COMMITTEE ON ACCOUNTS, ENROLLMENT AND REVENUE

- G. Recommending that the 3rd quarter FY2004 write-off list for the accounts receivable module be approved.

- H.** Advising that it has accepted the City's Quarterly Financial Statements for the nine months ended March 31, 2004 for FY2004 submitted by the Finance Department, and is forwarding same to the Board for informational purposes.
- I.** Advising that it has accepted the audit status update report submitted by the Finance Department, and is forwarding same to the Board for informational purposes.
- J.** Advising that it has accepted the following Finance Department reports:
 - a) department legend;
 - b) open invoice report over 90 days by fund;
 - c) open invoice report all invoices for interdepartmental billing only;
 - d) open invoice report all invoices due from the School Dept. only;
 - e) listing of invoices submitted to City Solicitor for legal determination; and
 - f) accounts receivable summary.And is forwarding same to the Board for informational purposes.

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

- K.** Recommending that a request from CIGNA HealthCare of New Hampshire to hang a 60-foot banner across Elm Street to mark the start of their 5K Road Race on Thursday, August 12, 2004 be granted and approved under the direct supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O'NEIL, DULY SECONDED BY ALDERMAN LOPEZ IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

Communication from Mayor Baines advising of transfer of appropriations per City Charter, Section 6.05:c for Police, Parks, Recreation & Cemetery and the Office of Youth Services.

Alderman Gatsas asked are these transfers from salary lines and is that because there were funds left over in those lines.

Mr. Kevin Clougherty stated under the Charter they were requested by the department. We looked at them and they are unencumbered for the end of the year. They will be available and, therefore, we are recommending that they take care of some of the issues that are important at this time.

Alderman Gatsas asked and the Youth Services, the \$7,500 is for a conference and licenses. Can anyone tell me what that is for?

Mayor Baines called Martin Boldin forward.

Mr. Martin Boldin stated we requested a budget adjustment so that we could put money into training for our staff and to buy some furniture for the Office of Youth Services.

Alderman Gatsas stated this amount of \$92,500 are funds that are coming out of surplus at the end of the year or the overlay account that we have.

Mayor Baines responded that is correct and it is normal procedure during the year that they bring forward requests for line item changes under the Charter. That is authority that is granted to the Mayor. It is reviewed by the Finance Office and scrutinized to see if it is an appropriate expenditure and if there is a critical need then the Finance Office recommends that transfer as well.

Alderman Gatsas asked so those funds would be here to reduce the tax rate in the overlay account.

Mr. Clougherty responded they would be there to reduce the tax rate but also, Alderman, you have to understand that these are regarding as items that are necessary and they would probably be in their upcoming budget request.

Alderman Forest moved to receive and file. Alderman DeVries duly seconded the motion.

Alderman Guinta asked Kevin can you tell me how much money to date has been line item transfers. There were a couple of other items earlier...

Mayor Baines interjected police cruisers.

Alderman Guinta asked was there something in addition to that though.

Mayor Baines stated Mr. Thomas had a vehicle that would not pass inspection.

Mr. Clougherty responded I don't have an exact breakdown but I will get that to you tomorrow. It has only been in the last couple of weeks and it has mainly been for vehicles.

Mayor Baines stated again we were trying to address some fleet issues that have been lingering. We had a vehicle that wasn't running and we had police cruisers that were not going to be functioning pretty soon.

Mayor Baines called for a vote. The motion carried with Alderman Gatsas being duly recorded in opposition.

Communication from Attorney Anthony Marts, on behalf of Manchester Place LLC, advising of a closing date of May 3, 2004 as outlined in the Purchase & Development Agreement dated June 5, 2002 on property located at Bridge and Elm Streets.

Alderman Osborne asked can anybody give me the status on Bridge and Elm Street.

Mayor Baines responded I received an oral communication today that HUD has issued a letter of commitment for Bridge and Elm. The details and conditions of that commitment are being addressed at this time between the parties involved and the developers look forward to a closing and construction start in the next few weeks. In fact, the closing process has already commenced.

Alderman Osborne stated I voted for the project itself but not the garage. I just want that to be noted.

Alderman Gatsas stated I notice that you have all of the information there. Maybe you can address...have they met all of their specifications on deposits as it is on Page 4 of the agreement?

Mr. Clougherty responded my understanding is that they have, Alderman.

Alderman Gatsas asked so we have received \$1,200 commencing April 1 to continue this agreement. We are in receipt of those funds?

Mr. Clougherty answered my understanding is that we have but I will check and verify that for you tomorrow.

Alderman Gatsas asked well if they are in breach of contract how can we extend it. Can somebody address this? Mr. Jabjiniak or somebody else?

Mayor Baines asked Skip Ashooh and Atty. Karen McGinley to come forward.

Atty. Karen McGinley stated because the extension was such a short one the parties had agreed to put that on the closing statement. The buyer has agreed to pay that at closing directly to the City. It will be on the closing statement. A prorated amount up to the day of closing at \$1,200.

Alderman Gatsas asked isn't that a breach of the agreement that was supposed to come to us April 1.

Atty. McGinley answered at the time that occurred we thought we were closing shortly after that.

Alderman Gatsas asked is it your position to make decisions for the City on whether we receive funds or not.

Atty. McGinley responded I did this in consultation with the other parties to the transaction. I don't think the buyer would have a problem if the amount needed to be received now.

Mr. Skip Ashooh stated this is part of what we think was an accommodation to take the fairly complex closing and take the HUD's time processing accounts...the funds that are due are going to be due and payable upon closing. We have asked for the closing to be extended because of the complexity and I believe those funds are also accruing at a rate of interest as well.

Alderman Gatsas asked can you explain to me...I read I believe your comments or somebody's comments in the paper regarding the fact that the extension of the closing was because of travel between Manchester and Boston to accommodate a closing.

Mr. Ashooh responded I did make that statement. There are a number of parties and one of the requests was that the closing may have to be concluded in Boston at the HUD office and we have to make provisions for that.

Alderman Gatsas asked what provisions do we have in the extension agreement for default.

Atty. McGinley replied the provisions in the extension agreement do not change the default provision or the rest of the provisions in the document.

Alderman Gatsas asked is there a reason why we wouldn't ask for an additional deposit in case there is a default.

Atty. McGinley answered the \$1,200/month was anticipated to be paid to the City for a closing that didn't occur before April 1. In addition, the amount of interest which would have been earned by the Manchester Development Corporation will be paid followed by or through the day of closing.

Alderman Gatsas stated normally on a multi-million dollar project if an extension is sought after by the buyer there are additional deposits that are put up in risk if they do not close within that closing. Is there a reason why this City should not be looking for additional funds to protect it's interest? We have had this property off the market for the better part of two years at probably the peak real estate market that we have seen in this area in probably the last 14 so I guess if we are going to take it off the market and we are going to extend the closing date...we have been looking for this to close for awhile haven't we?

Mr. Ashooh responded we have been looking for it to close for awhile but I also have to tell you that we do have a \$50,000 non-refundable deposit at this point and additional deposits wouldn't serve any greater need. The need is for the closing to get done, which is something we are comfortable having to absorb.

Alderman Guinta stated my understanding at this point is we are within business days of completion of the closing. Is that fair to say?

Mayor Baines responded that is correct.

Mr. Ashooh stated the outside limit on the closing was May 3 and we were making a provision for the fact that HUD was taking a little bit longer. It should be soon but legally we need to extend it.

Mr. Clougherty stated I agree. If there was some indication from HUD or one of the other parties that there was going to be a significant delay then I agree with Alderman Gatsas that we might be looking to do something but where the closing is eminent we are trying to keep in the spirit of the agreement in cooperation to try to get the project done and I think that is a reasonable expectation. That is why it is coming back to the Board tonight for an extension.

Mayor Baines asked do we need action on this. It is under information to be received and filed.

Deputy Clerk Johnson responded they can vote to accept the date.

Alderman Roy moved to accept the new closing date of May 3, 2004 as outlined in the communication. Alderman Guinta duly seconded the motion. Mayor Baines called for a vote. The motion carried with Alderman Gatsas being duly recorded in opposition.

Nomination presented by Mayor Baines.

Manchester Development Corporation

Michael McCluskey, to succeed Howard Brodsky, term to expire March 11, 2006.

On motion of Alderman Thibault, duly seconded by Alderman Roy it was voted to suspend the rules and confirm the nomination of Michael McCluskey to the Manchester Development Corporation, term to expire March 11, 2006.

On motion of Alderman Garrity, duly seconded by Alderman Osborne it was voted to recess the regular meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented recommending that
Appropriating Resolutions:

“ ‘A Resolution appropriating to the Manchester School District the sum of \$138,500,000 for the Fiscal Year 2005’ as amended to \$137,499,619.”

“A Resolution appropriating to the Manchester School Food and Nutrition Services Program the sum of \$5,162,270 from School Food and Nutrition Services Revenues for Fiscal Year 2005.”

ought to pass and layover.

Alderman Shea moved to accept, receive and adopt the report of the Committee on Finance.
Alderman Osborne duly seconded the motion.

Alderman Gatsas stated your Honor I don't know if you were here when we were discussing with the Highway Department the school maintenance process but Frank Thomas was here and he felt very uncomfortable that we would do maintenance on a \$105 million project and expend funds to the School District, which can be moved into any line item that they so chose without having a contract. I think that comes from him and your Honor I think with the respect that every Board member has for Frank Thomas if that is a recommendation that he is giving us I would suggest that we as a Board take heed with what he is telling us because we don't have control over the School Board's budget once we give it to them and if we don't have a contract that says the \$105 million worth of property that we are paying for is going to be maintained at the numbers that have been shown to us then we could have a problem. I think, your Honor, that it is time we start talking about what it is that we as a community are paying for education from books to bricks and books to bricks is \$148,099,619. That comes out to \$8,544 per child. That is the total amount that we are spending from books to bricks for education. I think it is time that we take a look and see where we are going because we have a \$105 million project and we have no contract for the maintenance. That is the truth. That is \$137,499,619 and you add the \$10.6 million that is in CIP for Federal funds. If you add those two together you come out with \$148,099,619. From books to bricks – all inclusive of education because you can't educate kids without transportation or a school.

Mayor Baines stated you also know that the amount per pupil cost for education is calculated pretty much the same from district to district across the state.

Alderman Gatsas responded some districts do not have the same ability for debt service so when you look at it and I think that your colleague or somebody passed something out from your colleague in Nashua about how they were cutting the School District budget. The

constraints are everywhere. It is not just in Manchester. The fact is that we have had colleagues on this Board that obviously a few weeks ago tabled a budget because they were going to bring one forward. I don't know if Alderman Roy has had the opportunity to bring his budget forward but I have been reading in the paper that he has been working on one. Alderman Smith has said that he has gotten a ton of calls from taxpayers that the rate has to be reduced. Alderman Thibault is throwing rose petals and I guess the rest of us don't want to take a look at the better part of 40% or 50% of this budget before we move forward. We are looking at things and not moving forward in a practical manner. We are allowing this budget to move forward first without a maintenance contract in place and that is wrong. We have had a department head that everybody on this Board respects and he said it to us here this evening but yet we are going to move forward, your Honor. I don't think that is a wise and prudent decision.

Mayor Baines responded just to state some facts here the Nashua School District budget increased 7% in Nashua and that is significantly above what we are increasing here in Manchester. That is a fact.

Alderman Shea stated I know we debated this last night and I would like to move the question.

Alderman Sysyn duly seconded the motion to move the question. Mayor Baines called for a vote. Alderman Gatsas requested a roll call vote. Aldermen Gatsas, Guinta, Garrity and Roy voted nay. Aldermen Sysyn, Osborne, Porter, O'Neil, Lopez, Shea, DeVries, Smith, Thibault and Forest voted yea. The motion carried.

Mayor Baines stated the main motion is now on the floor. Alderman Gatsas requested a roll call vote.

Alderman Guinta asked what are we voting on.

Mayor Baines stated we are voting on the report of the Committee on Finance, which includes the two School Resolutions.

Aldermen Gatsas, Guinta, and Garrity voted yea. Aldermen Sysyn, Osborne, Porter, O'Neil, Lopez, Shea, DeVries, Smith, Thibault, Forest and Roy voted yea. The motion carried.

A second report of the Committee on Finance was presented recommending that Resolutions:

“Establishing a Manchester School District Capital Projects Expendable Trust.”

“Establishing a Manchester School District Facilities Maintenance and Repair Expendable Trust.”

“Establishing a Manchester School District Health Maintenance Expendable Trust.”

“Establishing a Manchester School District Athletic Equipment Expendable Trust.”

“Establishing a Manchester School District Special Education Expendable Trust.”

ought to pass and layover.

Deputy Clerk Johnson stated we would note that we also handed out to the Board some suggested revisions, which would require an amendment to the report and the Resolutions. I believe everybody has those before them.

Mayor Baines asked would it be one motion to get all of those on the floor for discussion.

Deputy Clerk Johnson answered you would need a motion to get the report on the floor.

On motion of Alderman Roy, duly seconded by Alderman O'Neil it was voted to move the item for discussion.

Alderman Lopez stated I have went over this today with the Finance Director and I want for the record to have the Finance Officer explain about the line item if Kevin can pay attention over here. As I was saying I would like to have the Finance Officer explain as he explained to me about the line item and how this is going to work and when it is going to work so we completely understand about transferring money into and out of these accounts. I think it is very important that we have it on record.

Mr. Clougherty responded as I explained to you the concept here is to try and make sure that once...this Board adopts a bottom line budget and the bottom line goes over to the School District and they reallocate that bottom line into various line items. What we are trying to do is identify those line items and make sure that if there is a balance in particular line items that that goes into the related fund. For example, when we give the bottom line appropriation to the School District they will reallocate that and put so much in health insurance. At the end of the fiscal year if there is a balance in the health insurance line item that is the amount that would go into this trust fund, not the balances from any other line items but just the ones for the health insurance. Similarly, for high school athletics only the balances in high school athletic lines would go into the high school athletic fund and so on. The provisions of the various resolutions is such that what we have done in this first year is said that for FY04 only a certain amount of dollars can be put in the trust fund so each one is capped at different amounts. Some for \$50,000 and some for \$25,000. That assures that you will have the fund balance that you are counting on for your current budget year.

Alderman Lopez asked under Section 6 it says, “2/3 of the entire membership of the School Committee.” If we wanted to dissolve these funds, could we do it? Once we create them it would take 2/3 of the Board of Mayor and Aldermen to take these funds away?

Mr. Clougherty answered that that 2/3 in Section 6 is it says it takes 2/3 of the School Board to have the authority to expend the funds and to use it so it can’t be done on a casual basis. The whole idea here is to try to build these funds over time so that we will have something much the same as the City has on its side for situations where we need to draw on them in the future.

Alderman Lopez responded I fully understand that and I support the trust funds. My question may be for Deputy Solicitor Arnold. If we find for some reason that we want to end these trust funds do we have that authority as the Board of Mayor and Aldermen?

Deputy Solicitor Arnold replied yes I believe you would, however, if there were any balances in the trust funds they would be School Department funds I believe.

Alderman Roy asked so what you are saying is that once we establish these we could discontinue the trust fund but the money would just be turned over to the School District.

Mr. Clougherty responded my understanding is that the trust funds would be set-up under the trust fund provisions of the state and consequently they would remain with the Trustees of Trust Funds for that purpose. If you stopped it there would still be an investment program and all of that that would apply for a certain time but you could discontinue them going forward.

Mayor Baines stated but the funds would be with the Trustees of the Trust Fund and not the School District.

Mr. Clougherty responded that is right. The custody of the dollars is with the City’s Trustees of Trust Funds.

Alderman Porter asked Mr. Clougherty could you touch on this. I am reading in Section 1 where it says, “the appropriation together with any additional amount as authorized by the Board of School Committee in any fiscal year” so the Board of School Committee can also put money into that trust fund?

Mr. Clougherty answered there are different ones. Which one are you looking at?

Alderman Porter replied the one I am looking at is for Facilities Maintenance and Repair. For example, \$25,000 and it says, “with any additional amounts authorized by the Board of School Committee.” Can the Board of School Committee put money into the trust fund?

Mr. Clougherty responded they can put money into that particular one but if you read down below there are limitations as to how much can be deposited at any one time in any one year. It can't just be unlimited. It has to be no more than a certain percentage of the prior year.

Alderman Osborne asked on these different trusts are they earmarked for that particular trust like if it is health or whatever they have to spend it on that particular line item and no other.

Mr. Clougherty answered that is right.

Alderman Shea asked the money that is put into each of these trust funds by a line item has to be a surplus in that line item in the end of the year correct.

School Committee Member Thomas Donovan responded that is correct.

Alderman Shea asked so it is not an appropriated amount or a line item in the budget of the particular School District but a line item, which at the end of the year if it has a surplus it can be put into that distinct area.

School Committee Member Donovan responded right.

Alderman Shea asked and that distinct area has to be as you outlined in the particular line item whether it is special education or health or whatever.

School Committee Member Donovan answered yes.

Alderman Shea asked could you elaborate or maybe Kevin as far as a possible limit that each fund might have. Is there a limit that would be acceptable by the auditor?

Mr. Clougherty answered if you read Section 5 of the agreements it says that the funds and in this case the first one is Special Education but it says, "should not exceed an amount equal to the line items for special education for the previous fiscal year." What that does is it tries to make sure that you are carrying one year's worth of dollars in case of a catastrophic situation because remember you limit the amount of money that they can take out of the trust in a particular year too so the idea here is not to create a revolving fund but to create something that is going to grow and be useful in time so that the interest can be used to help defray the operating expenses.

Alderman Shea asked does the interest of each trust fund go to the School District.

Mr. Clougherty answered they will accrue to the particular fund and if in any particular year the principal plus the interest earned gets you to that cap then anything above and beyond that will flow down to the fund balance and be used for tax rate purposes.

Alderman Shea asked are they allowed at the School District to invest in any trust funds in any kind of funds or do they like the City have to put it in funding that is of an obvious secure basis.

Mr. Clougherty answered they can't do that. That is why the custody of these funds will be the Trustees of Trust Funds and they will have to be under the provisions of the state statute in terms of what they can invest in. There will be a plan put in place and we will talk to the Finance Committee of the School Board to make sure that they are comfortable and know how those dollars are being managed. They will get copies of the reports from the fund manager on a quarterly basis.

Alderman Shea stated I know that you can take out a certain amount when a certain amount is reached but what is the amount that could be reached. In other words something that is obviously not determined like for example can the health trust be \$4 million or can it be \$500,000? What is the determinant?

Mr. Clougherty responded again what we have tried to do is not set a particular dollar rate but to try and earmark it to a particular percentage so that as these funds grow over time there won't be a limit. Certainly if we said \$500,000 today in 10 years time that would be ineffective. So what we have done is say that not more than 50% of the funds held in the expendable trust shall be expended in any one year so they can keep growing. We have also put in Section 5 that the funds in the School District Special Education Fund shall not exceed an amount equal to the line items for Special Education for the prior fiscal year. That is for Special Education. If you looked at it for the Athletics it says, "shall not exceed an amount equal to the line items for the Athletic fund for the prior fiscal year." If you look at the Health Trust it says, "shall not exceed 25% of the prior fiscal year." The idea there is that you want to build up the funds. The 25% for the health fund is the same as we have it on the City's general fund side. The idea of the others is to try and build...special education is such a volatile area that you want to make sure that they are able to get at least one year's worth of activity because it can be so devastating to get to that level. That would certainly provide a reasonable cushion for the District and they could budget a little bit more...they may be willing to take some more risk in their budget going forward if they knew they had that cushion in their reserve. Each one has a separate target, if you will, based on past practices and based on what we do at the City.

Alderman Shea asked so your conclusion is there is no definite amount. It is all predicated upon a particular percentage?

Mr. Clougherty answered that is right. There is no particular set dollar amount and that will change from year to year depending on the size of the budget and the size of the line items.

Alderman DeVries stated I would like to hear from School Committee Member Tom Donovan. You have had a chance, I would assume, to take a look at the drafts?

School Committee Member Donovan answered yes. These were worked out between Mr. Clougherty and Mr. Sanders but I have had a chance to review the drafts.

Alderman DeVries stated my particular concern would be...let's look at the Special Education Trust first. I would imagine in any given year there could be next to nothing left in the reserve at the end of the year to build this fund. Can you tell me being the Finance Chair...

School Committee Member Donovan interjected I understand that there is an attempt here to create some compromise as to targeting particular line items or surpluses in particular line items to particular expendable trust accounts.

Alderman DeVries responded I understand that as well but I just wonder if they have so handicapped a couple of these, particularly Special Education. Do you think we will be able to build that account to really make it be a useful tool? I think your auditor or when I first saw this there was a projection that it was going to take 10 years to get them up to a useful level of funding. Have we now extended that?

School Committee Member Donovan replied it is hard to say. If you are asking in a perfect world would we perhaps prefer more flexibility, maybe, but we understand that this is a mutual compromise exercise here so there is a feeling that perhaps it would be better if particular surpluses in particular line items were the source for that. That is where we are at tonight.

Alderman DeVries stated one of the other accounts that particularly caught my attention was Facilities Maintenance and Repair. After our conversation at our Finance Committee meeting earlier this evening talking about the level of funding for the maintenance of the schools, I doubt that will be built very quickly.

School Committee Member Donovan responded right. I think that fund is not to be seen as a substitute for bonding for capital projects or for even routine maintenance. I see that as if we have an elevator that needs to be replaced that is just not anticipated or something that may be in the \$100,000 to \$500,000 range that is just not budgeted but is of a small capital nature. That is where I see that particular expendable trust being used.

Alderman DeVries stated to follow-up on the special education because certainly that is one of the areas that could devastate your budget in any given year, should we be looking for any further compromise between your Board and our Board to make this a more useful document specific only to special education. Should there be some leniency in the ability to transfer funding for special education? I guess maybe our Finance Department may have some feedback.

School Committee Member Donovan responded my view at this point is that we would like to get this started and see how it goes for a year and perhaps after a year's operation we may want to come back and tweak it some. At this point it is May and we are running out of time. I would want our Board to review this in June because it is different than what was passed. We are running out of time for this fiscal year.

Mr. Clougherty stated I would agree. Let's start it and let's see how it works and certainly if we need to come back and tweak it we can. In our case you will recall that if the Health Insurance fund is filled by the line item for health insurance then that can go down to Worker's Compensation and if that is filled up then it goes down to insurance. Once these are up and running you may be able to create that type of a cascade between those funds once they are full. That might be an option. Types of things like that we would certainly be open to but I think now we should try and get it set-up and keep it simple to begin with.

Alderman Roy asked, Tom, do you know your special education tuition line item.

School Committee Member Donovan answered I don't. I think and I don't have the budget in front of me but I think it is a particular account within what we call our tuition account and I think we add in from different areas. There is transportation for special education, which is in a separate category. So you have to add different things together and I don't have that number in mind but it is substantial.

Alderman Roy stated a number was used the other night for one tuition for a special education student that could be upwards of \$100,000. Is that accurate?

School Committee Member Donovan responded it could be over \$200,000.

Alderman Roy asked in looking at this trust fund and setting this up and knowing that one child moving into the District could absorb \$100,000 or \$200,000 do you see this as a potential way to shave your budget instead of being a worst case scenario budget be a we have some catastrophic monies behind us and we can come in with a more exact number.

School Committee Member Donovan answered I think that in the future both with respect to health insurance and with respect to special education we may be able to count on typical year scenarios to answer your question but I don't think you could expect that until several

years from now when we have built it up to a level that we know what the potential range of a catastrophic event would be. That is the hope down the road that you will have more realistic scenarios as to what it is likely to be so that you don't have to plan every year for the catastrophe.

Alderman Roy stated many times I have said we are very reactionary here in the City and it is nice to see something being set-up that is looking long-term down the road and that we will be putting money aside to build for our future. Thank you to Tom and the other people on the School Board who worked on this.

Mayor Baines stated I think also as an editorial sideline I think Kevin will agree that when the City was first setting up a lot of their reserve funds like the rainy day fund there were a lot of these discussions but the fact of the matter is the fact that we have built very substantial reserves and positioned the City quite well financially and the District is looking ahead to try to do the same thing.

Mr. Clougherty stated we have used the health insurance fund and worker's compensation to help us level out finances.

Alderman Gatsas asked, Tom, just because I understand what the process is and I want to make sure that my colleague, Alderman Shea, understands the same thing because I think he thinks that if you have \$1 million in your special education line item that if you expand that from the salary account and increase that to \$1.2 million that you can deposit the \$200,000 because you have the ability to move within line items. I think you know my position of where I am at but I just want to make sure that I help you out for the people who are understanding something that you make it very clear that you have the ability to move line items and if you want to put money in that line item for the special education account that then you can put that money in this expendable account.

School Committee Member Donovan answered that is theoretically right. There is an upside and a downside issue here and I think this plan establishes a balance. One is you could have a fear that the School Board will try to flood the expendable trust program by moving money into those line items so that is where all of the surplus would go. I think that is perhaps less of a risk. The other is the downside risk, which is we have a nice fat surplus in a particular line item that would go to an expendable trust and we move it out so nothing would go in. I don't think either scenario is likely and I think that the way this is written it is going to be reviewed by the auditor and it is the audited amount that is the correct amount. I think this strikes a balance with respect to both risks.

Alderman Gatsas asked so what you are saying to me is that if you had a surplus in your salary account of \$300,000 and has zero in your special education line item that you would turn that \$300,000 over to the City for surplus.

School Committee Member Donovan answered we turned over \$1 million in to the City for surplus last year so I would say the odds are sure.

Alderman Gatsas asked so you wouldn't put any into these accounts.

School Committee Member Donovan responded I can't predict the future as to what is going to happen.

Alderman Gatsas stated Kevin I think you made a statement that we as a Board could vote with 2/3 of the Aldermen to close these accounts down and at that point they are still the School District's money. Now are they appropriated as surplus in that given year when we shut them down. I don't think that this Board should have the ability with a 2/3 vote to close down accounts and make them turn it over to surplus whether Ted Gatsas is sitting here or anybody else. If that is what we are doing here, that would be a wrong long-term solution to a problem.

Mr. Clougherty replied I think that is what I said, Alderman. If you create these trust funds and say they run for a couple of years and there are some balances in those accounts with the Trustees of Trust Funds and for some reason the Board is not happy with the way it is going so the Board decides they want to discontinue the trust funds. Again, I am not a lawyer but I am giving you what I think would happen. My understanding is that the trust funds from there going forward they would not be able to deposit any dollars into but the dollars that are in those trusts would have to be used for that purpose until such time as they were extinguished. Now I could ask the Solicitor would we do at that point.

Deputy Solicitor Arnold stated I think you are correct that the funds could be used for those purposes under these Resolutions. If it were to be used for another purpose that would also require a 2/3 vote of the Aldermen Elect.

Alderman Gatsas stated let's assume that there is \$1 million in each one of those accounts and the Board with a 2/3 vote decides to close them down and reduce the funding to the School District by let's say \$4 million then they would have to use those funds in those accounts to fund special education because they wouldn't have enough funding. I don't think that is the purpose of what we are attempting to do here.

Mr. Clougherty responded the reason that the 2/3 vote is there is because I think once you start these the reason you start them is not with the idea of discontinuing them in a couple of years. I would hope that the spirit of both Boards is to put these in place and make them work so that they would be enduring down the road for the purposes for which they are intended. If you got to some point in time where there was some problem with one or the

other of these trusts then certainly you would have to come back and explore at that time what the prevailing...I would defer to the Solicitor on that.

Alderman Porter stated I have a question and Kevin perhaps you could answer it. This is money taken from a surplus correct?

Mr. Clougherty responded it would be a surplus in the line item.

Alderman Porter asked once these trust funds are established is that viewed as an encumbered surplus or would the word surplus not be used at all.

Mr. Clougherty answered once we have the auditor's opinion in terms of what the balances were in the line items those dollars would be transferred from the School District to the Trustees of Trust Funds and invested in the trust fund from that point forward and would not be able to be used or removed without a certification of a vote by the School District from their Clerk.

Alderman Porter asked would we for example as the Board of Aldermen in preparing the budget consider the amount in the trust fund in establishing the budget for the following year. For example, on the Building and Maintenance and not to pick on that but that seems to be handy for me it says, "the funds shall not exceed an amount equal to line items for facilities maintenance and repair in the School District's budget for the prior fiscal year." That could be quite substantial couldn't it?

Mr. Clougherty answered I could see where it might be depending on circumstances, sure.

Alderman Porter asked so if for example there were \$500,000 in there and this is getting away from the initial amount but if there was \$500,000 in there would it be not appropriate for this Board of Aldermen for example to consider that there is \$500,000 in that expendable trust of Building and Maintenance and we could establish the Building and Maintenance...well no you couldn't because we don't have a line item issue. I guess my only concern is that a substantial amount could be accumulated in this particular account although the benefit to that would lead back to Alderman Gatsas' concern that it would have to be spent on maintenance and repairs, right?

Mr. Clougherty answered right. That is the reason why you are setting them up so the logic would follow that you would want to get to a point where you could use them for that purpose.

Alderman Porter stated it says here these are going to layover. Until when?

Mayor Baines responded the next meeting.

Alderman Porter stated and if it is approved it would be taken out of the budget of FY04 ending June 30, 2004 and the initial amount would be put in.

School Committee Member Donovan responded we hope to start it with \$175,000 just to open the accounts if you will.

Alderman Porter asked so you are looking to put in the max as established by the trust for this year.

School Committee Member Donovan answered yes.

Alderman Osborne stated my question is on the same line as Alderman Gatsas. As a Board we give you \$137.5 million let's say and you take those monies and spend them however you wish true?

School Committee Member Donovan responded yes.

Alderman Osborne asked so if you have something left in a line item whether it be maintenance or insurance or whatever what is to stop the School Department from putting it into a different line item or a different expendable trust. They could circumvent it and favor one trust over the other. They could fatten that one up and so on and so forth. This is my question.

School Committee Member Donovan answered I think there is a certain element of trust that has to go with this and certainly you will see what we do.

Mr. Clougherty stated I think the other point to remember is that these trusts are being established at the recommendation of both the City's auditors and the School District's auditors. When the School District auditor goes in to review the year end books and how much has been deposited into the trust fund, he is going to take a look at these resolutions and say okay how much was there in this fund and if he sees transactions right before that where they were maybe moving money in and out it would be my belief that they would have at that point in their management letter some type of notation alerting the Board to that as being inconsistent with the spirit if not the law of the resolutions and that would be...as you know their audit comes to us and the Aldermen would see that finding.

Alderman Osborne responded I think that is a good incentive. I have no problem with the concept of the whole thing but it is just like you said it is going to take some trust.

Alderman Guinta asked Tom if these trusts were established five years ago and they were currently funded would you be able to cite for this Board some examples over the last few

years that the School Board would...how the School Board would have utilized some of the monies in these trusts for certain catastrophic or other events that have occurred where you would have used these accounts.

School Committee Member Donovan answered I can think of FY02 we ran well over on the health insurance account. Claims were much higher than had been budgeted and several times we had to transfer money into those accounts. We would have been able to use a portion of this expendable trust so that we didn't have to do that. I remember that we took money out of the supply account to feed the health insurance claims. If we had this expendable trust in place for health insurance we wouldn't have needed to do that. We would have been able to tap some of that. The other that I can think of and I don't know if it is catastrophic but the transportation costs for special education last fiscal year and this fiscal year exceed the large budgets that we have already supplied for them. Are they at a level that is catastrophic? Maybe not but it was certainly higher than the high budget that we had set for those accounts.

Alderman Guinta asked and in each year FY02, FY03 and FY04 did you run surpluses in each of those three years.

School Committee Member Donovan answered yes. Well in FY04 we will. We haven't finished yet but in FY02 and FY03 we ran overall surpluses.

Alderman Guinta asked do you know off the top of your head what the surplus numbers were for FY02 and FY03.

School Committee Member Donovan answered \$2.8 million over three...well Kevin can help me with that. We had to pay back the \$3 million deficit and we clawed our way back over those two years. I think in FY02 we paid back about \$677,000 or something like that. In FY03 we paid back the balance, which would have been like \$2.1 million and then on top of that we returned additional surplus, which was used to reduce the tax rate.

Alderman Guinta asked and in the two examples that you cited did the School Board ever come to the Aldermen with a supplemental or additional request to fill those...

School Committee Member Donovan interjected I know that in FY02 I was in front of you talking about supplemental appropriation because of that problem and there were problems with that because we had a fund deficit and that created problems. In FY03 I don't think we asked for anything.

Alderman Porter stated my last question on this particular item is did you say before, Tom, that you could go from trust to trust to transfer.

School Committee Member Donovan responded no. Once it is in the trust it is there.

Alderman Porter asked now the only way you could do that would be with 2/3 of the Aldermen elect I assume correct. For any other use other than herein?

School Committee Member Donovan answered right. If we wanted to use the health insurance money for a special education need we would have to come back to you.

Deputy Clerk Johnson stated we would look for a motion to amend the report and to amend the resolutions by substituting the language that was provided in the handouts.

Alderman Roy moved to amend the report and amend the resolutions by substituting the language with the language provided in the handouts. Alderman O'Neil duly seconded the motion. Mayor Baines called for a vote. The motion carried with Aldermen Gatsas and Guinta opposed to all of the resolutions and Alderman Garrity opposed to all but the last resolution.

Alderman Roy moved to accept the report as amended. Alderman O'Neil duly seconded the motion. Mayor Baines called for a vote. The motion carried with Aldermen Gatsas and Guinta opposed to all of the resolutions and Alderman Garrity opposed to all but the last resolution.

A third report of the Committee on Finance was presented recommending that a Resolution:

“Authorizing the Finance Officer to effect a transfer of Fifty Thousand Dollars (\$50,000.00) from EPD Contingency to Maintenance and Repair.”

ought to pass and be enrolled.

On motion of Alderman O'Neil duly seconded by Alderman DeVries it was voted to accept, receive and adopt the report of the Committee on Finance.

A report of the Special Committee on Riverfront Activities & Baseball was presented advising that it has set a price of Three Million, One Hundred Thousand Dollars (\$3,100,000) for the Riverfront Development property, and further, that the appraisal by Joseph A. Fremeau Appraisals and the review appraisal completed by Crafts Appraisals Associated be released.

Alderman Smith moved to accept, receive and adopt the report of the Special Committee on Riverfront Activities and Baseball. Alderman DeVries duly seconded the motion.

Alderman Gatsas stated I guess I need some kind of explanation of why we have an offer of \$4 million in writing that is public information from a group and we have not addressed that.

Alderman Lopez stated I am a little confused on a couple of things. Maybe the City Clerk can help me. The Baseball Committee has all of the authority to make this decision so why is this here tonight?

Deputy Clerk Johnson responded because the Baseball Committee normally reports out major actions to the Board as advising only. This is just for information.

Alderman Lopez replied I just want to make sure that this is just for information because we have been given that authority. Now, Alderman, what was your question?

Alderman Gatsas responded I would like somebody to give us an understanding of why we are reducing the price to \$3.1 million when we have an independent offer that has been given to us for \$4 million. My understanding and I could stand to be corrected but my understanding is that normally price in real estate is set by an arms length transaction and as far as I know the two people who have made the offer don't have anything but an arm's length transaction and we haven't responded to them in any way.

Mr. Clougherty replied I don't know if we haven't responded to them in any way. My understanding is that because we have a lease that is in force on that property to go out and be negotiating while that is in place puts us in a serious disadvantage if not a legal problem.

Alderman Gatsas stated never did I question that we have an agreement in place but setting a price is what we are discussing here and the price that was presented to us was an arm's length transaction and that price was \$4 million. Can I get an understanding of why we changed it?

Mayor Baines asked wasn't there a vote in Committee.

Alderman Gatsas replied I am just asking.

Mayor Baines asked weren't you on that Committee.

Alderman Gatsas answered that conversation never came up.

Alderman Lopez stated there was a lot of conversation and we went into non-public session so I am not going to get into that particular aspect. The \$4 million was based upon five Aldermen taking a vote after listening to some of my colleagues that have more experience in real estate and the valuation of property and that included Alderman Gatsas. Why I am hesitating is because I don't want to get into the non-public portion of the conversation but to answer your question why \$3.1 million I think when we sell real estate or we sell anything in life we try to get the most that we can. We tried. Since the appraisal has been released by the Committee and it indicated \$2.8 million, which is public information now and it could go

as high as \$3.1 million or \$3.2 million I think that to move this project along it was brought before the Committee members in Committee. The vote was taken to do this without going into any conversation we had in non-public session and I don't desire to do that. If Tom Arnold would like to add anything to that or Kevin that is fine. The developer has a lease on the land regardless of whether someone would come in and offer this Board any type of money we could not sell it. He is there to develop the land, number one, and if the people that are in the development phase want to leave for example he would still have to develop it or the letters of credit will come into play. We have said that many times. That is my answer to you.

Mayor Baines stated the motion would be to accept the Committee report. That is all we need to do tonight. There is no other action required.

Alderman Smith moved to accept, receive and adopt the report of the Special Committee on Riverfront and Baseball Activities. Alderman Shea duly seconded the motion. Mayor Baines called for a vote. Alderman Gatsas requested a roll call. Aldermen Gatsas, Osborne, and Garrity voted nay. Aldermen Guinta, Sysyn, Porter, O'Neil, Lopez, Shea, DeVries, Smith, Thibault, Forest and Roy voted yea. The motion carried.

A second report of the Special Committee on Riverfront Activities and Baseball was presented recommending that a the parcel of land set forth in a communication from Deputy City Solicitor Arnold be released from the Master Lease with the intent that Mr. Blouin may be given an Access Easement over said parcel or that said parcel may be transferred to him in fee.

Alderman Lopez moved to accept, receive and adopt the report of the Special Committee on Riverfront Activities and Baseball. Alderman Roy duly seconded the motion.

Alderman Gatsas stated it seems as though we consistently have to move items to move this project along as I continue to hear but when it comes to the settlement of Derryfield Park we seem to put that on the back burner and that has now been shut off and I really don't know where that is at and it has been in excess of somewhere around 14 months. So, your Honor, I think that it is time that if we are going to continue moving this project along as we continually say on a regular basis or once a month when we meet that we should have a position that we will move Derryfield Park in the same sort of manner so that in case nobody has noticed that is probably one of the busiest parks in the City and I think that we have been sitting here looking to get that completed on promises and we haven't done it yet. I think that we should at least, if we are going to move this project along, we should move Derryfield Park along.

Mayor Baines stated I thought we had this discussion last night.

Alderman Lopez responded we did and apparently he didn't understand what I said last night. There are legal issues that are being worked out between our City Solicitor and Drew Weber's attorney. I was informed today that there is a meeting Friday to finalize Singer Park and as soon as they give me the word I will call a special meeting and we will solve it. I have said that three times. I don't know how many more times I have to say it.

Alderman Gatsas replied with all due respect we have been hearing that four fourteen months.

Mayor Baines called for a vote on the motion. Alderman Gatsas requested a roll call. Aldermen Gatsas and Osborne voted nay. Aldermen Guinta, Sysyn, Porter, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, Thibault, Forest and Roy voted yea. The motion carried.

Communication from Leo Bernier, City Clerk, suggesting that the July Board meeting be held on Tuesday, July 20, 2004 due to the Independence Day holiday being held on Monday, July 5th.

On motion of Alderman Thibault, duly seconded by Alderman Shea it was voted to approve the request to hold the July Board meeting on Tuesday, July 20, 2004.

Communication from Thomas Bowen, Water Works Director, submitting a request for retirement under the old pension plan for Russell S. Bond effective July 30, 2004.

On motion of Alderman Forest, duly seconded by Alderman Smith it was voted to accept the retirement request of Mr. Russell S. Bond effective July 30, 2004.

Communication from Barbara Vigneault, Elderly Services Director, advising of CMC's proposal to provide community and medical services at the new Manchester Senior Activity Center.

Mayor Baines asked Barbara has that gone to any Committee of the Board.

Ms. Barbara Vigneault answered no.

Alderman Lopez stated I had a conversation with Barbara Vigneault and as the documents in here indicate there is a discrepancy as to what CMC wants and what Elderly Services wants so I would move to refer this to the Committee on Administration.

Alderman Shea duly seconded the motion to refer the item to the Committee on Administration. Mayor Baines called for a vote. There being none opposed, the motion carried.

NEW BUSINESS

Resolution:

“Authorizing the Finance Officer to effect a transfer of Fifty Thousand Dollars (\$50,000.00) from EPD Contingency to Maintenance and Repair.”

On motion of Alderman Roy, duly seconded by Alderman DeVries it was voted to read the Resolution by title only, and it was so done.

On motion of Alderman Shea, duly seconded by Alderman Forest it was voted that the Resolution be Enrolled.

A report of the Committee on Community Improvement was presented advising that they have authorized the Airport Director to continue the policy of providing vehicles for business and personal use to the current Deputy Directors at the Airport until such time as these employees vacate their positions.

Alderman O'Neil moved to accept, receive and adopt the report of the Committee on Community Improvement. Alderman Osborne duly seconded the motion.

Alderman Garrity stated I don't think it is right and I don't think this is a policy to keep in place. I opposed it in Committee and just want to state that to the full Board.

Mayor Baines called for a vote on the motion. The motion carried with Aldermen Shea and Garrity being duly recorded in opposition.

Alderman Gatsas stated I have a concern and I know this came up in Committee but it hasn't been mentioned. I have a serious concern about the playing surface at Gill Stadium. I have a concern about the fact that there could be grave injuries, not only with the Fisher Cats playing there with the debris that seems to be flying in the air but my bigger concern, your Honor is that once this is turned over to us and we start having football games and soccer games there I have a real question that that material in somebody's eyes could produce some grave injuries. I really have a concern that we as a City need to find out where the liability is falling because if we don't before something happens it is going to be on our watch.

Alderman Forest stated I was at the Baseball Committee meeting yesterday and I was under the impression that Frank Thomas said he was addressing that problem in order to clean that up and come up with a solution to that problem. I know Frank said he was looking into it and I think we ought to let him work on it

Mr. Clougherty stated that is correct. Frank is working on it and he said he would respond to the Committee at its next meeting.

Alderman Gatsas stated I think the statement that Mr. Thomas made was that the contractor has said that it was properly installed. I am not concerned with where we are but if somebody gets injured because we are playing high school games there and with the way things move in speed with that place...I just don't want to see one of the youths in the City get hurt.

Alderman Smith stated I brought this up last night and I talked with Frank Thomas because it is a concern of mine as well as Alderman Gatsas. We both know sports and I think it is going to be a safety hazard to the football players because they will be in the powdered rubber. I talked with Frank and he said he would talk with Harvey Industries who is going to try to bring somebody in. It has to be addressed before September and anybody that goes to a game, if it is a line drive there are 20 hops of powdered dirt going up there. I don't think it was properly done in the first place. That is my contention because I have been at other parks where it hasn't been but it has to be addressed and I want to make sure...I agree with Alderman Gatsas that we don't want to have any City liability once it is turned over to us in September.

Mayor Baines stated I would suggest that we allow some time for Mr. Thomas to look into it and report back to the Committee.

Alderman Guinta stated the resolution that passed this evening regarding the School District funds, can I just get a clarification regarding the language. There is a sentence in the language that says "City Treasurer may hereafter come into it and the balance by tax upon the estates liable to be taxed in said City and by tax on polls, or from other source shall be appropriated as follows." Does that require a technical correction because as far as I understand it we cannot tax polls or are we taxing polls?

Mr. Clougherty responded we will look at it and make sure that if it needs to be changed it is done so for the next meeting.

Alderman Porter stated the polls are taxed as part of the PSNH real estate liability.

On motion of Alderman Smith, duly seconded by Alderman Porter it was voted to recess the meeting to meet with the Chief Negotiator for a negotiation strategy session.

Mayor Baines called the meeting back to order.

There being no further business, on motion of Alderman Roy, duly seconded by Alderman Smith it was voted to adjourn.

A True Record. Attest.

City Clerk